

An adjourned meeting of the Board of Supervisors of Albemarle County, Virginia, was held on December 21, 2010, at 12:00 p.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia. The meeting was adjourned from December 15, 2010.

PRESENT: Mr. Kenneth C. Boyd, Mr. Lindsay G. Dorrier, Jr., Ms. Ann Mallek, Mr. Dennis S. Rooker, Mr. Duane E. Snow and Mr. Rodney S. Thomas.

ABSENT: None.

OFFICERS PRESENT: County Executive, Robert W. Tucker, Jr., Assistant County Executive, Thomas C. Foley, County Attorney, Larry W. Davis, and Clerk, Ella W. Jordan.

Agenda Item No. 1. The meeting was called to order at 12:34 p.m., by the Chair, Ms. Mallek. Ms. Mallek welcomed everyone present and thanked them for attending this joint session. (**Note:** Prior to the meeting starting, the Board members and Legislators ate lunch.)

Agenda Item No. 2. Meeting with Area Legislators. State Legislators Present: Senator Creigh Deeds, Delegate Rob Bell, Delegate David Toscano, and Delegate Steve Landes.

Also present was Legislative Liaison for the TJPDC, Mr. David Blount.

Thomas Jefferson Planning District Legislative Program Summary.

Thomas Jefferson Planning District 2011 Legislative Priorities (Counties of Albemarle, Fluvanna, Greene, Louisa and Nelson, and Charlottesville City)

CHESAPEAKE BAY TMDL

- The state and federal governments must provide major and reliable forms of financial and technical assistance for comprehensive water quality improvement strategies.
- We support fairness in applying requirements for reductions in nutrient and sediment loading across source sectors, along with accompanying authority and incentives for all sectors to meet such requirements.
- We will oppose actions that impose monitoring, management or similar requirements on localities without providing sufficient resources.

STATE/LOCAL FUNDING and REVENUES

- The state should honor its funding obligations to localities and resist cost-shifting to localities.
- In the face of continuing state budget woes and funding reductions to localities, the state should relax state requirements or provide flexibility for meeting requirements, and should not further restrict local revenue authority.

PUBLIC EDUCATION FUNDING

- The state should fully fund its share of realistic costs of the Standards of Quality (SOQ) without making formula changes that shift the funding burden to localities.

TRANSPORTATION FUNDING

- We request separate and dedicated state revenues for all transportation modes.
- The state should restore formula allocations for secondary/urban construction.

LAND USE and GROWTH MANAGEMENT

- We request additional tools to manage growth without preempting or circumventing existing local authorities in this area.

COMPREHENSIVE SERVICES ACT

- We urge a better partnership between the state and localities in containing the costs of CSA, and in balancing CSA responsibilities. We support additional state funding for administering CSA, as localities foot the bill for most of these costs.

Mr. Blount said that everyone has been provided with a summary of the Thomas Jefferson Planning District's 2011 Legislative Priorities (set out above) and the Legislative Program approved by all the localities in the Planning District. He stated that the legislators are probably familiar with most of the items on the summary list with the exception of the Chesapeake Bay TMDL. Mr. Blount said development of the legislative position on the TMDL involved an extensive process with local Planning staffs, elected officials and the Planning District Commission during various meetings. He added that this region was fortunate in that it was one of only seven regions in the entire Chesapeake Bay watershed to have a pilot project directed by the EPA in which they gathered data and worked with the various source sectors – local governments, agricultural, builders and developers and permitted dischargers – to get input from them as to their concerns. This input was then fed back into the process with the EPA and DCR. He stated that the Planning District is ready to work with legislators as they work through this issue during the General Assembly session.

In terms of the position on State/Local Funding and Revenues, Mr. Blount said that this position has been in the program for a number of years where the localities have asked the state to be cognizant of unfunded and underfunded mandates, not shift costs to localities, and to provide flexibility to meet requirements. He stated that another position emphasized this year relates to local revenue-generating authority, which comes on the heels of issues from the last General Assembly session regarding local taxing authorities as well as discussions on BPOL, machinery and tools, and communications and sales taxes. Localities would like to ensure that their current authorities continue to remain in place.

Legislative Priorities: 1) Amendment of the AFD Process; Burden of Proof in Tax Assessment Cases; and 3) Information on Composite Index.

Mr. Davis said that everyone has been provided with a copy of Albemarle County's 2011 Legislative Priorities. He plans to highlight three of those priority issues. The first issue is proposed amendments to the Agricultural and Forestal Districts Act. The proposed amendment would allow for simplification of the process of how ag/forestal districts are formed. He said that the legislation has needed reform for some time. He added that last year Albemarle County went through a reformed process of its land-use taxation program and went through a revalidation process. Mr. Davis said that those changes drew a lot of attention to the need for people to join ag/forestal districts to continue in land-use designation, so the County ended up processing a significant number of applications. He stated that it became apparent that the process needed reform. The proposed legislation changes aim to streamline the public notice process, as well as other processes related to the Ag/Forestal District Act, all of which will save time and money. Mr. Davis noted that the legislation is supported by VACo and other localities throughout the Commonwealth. The bill is being drafted by Legislative Services and the County will be looking for help with sponsors on the bill. He understands that Senator Hanger is interested in introducing the bill.

Mr. Davis said that the second issue relates to the burden of proof in tax assessment cases. There was a bill introduced last year that was supported in the House but stopped in the Senate, which basically shifted the burden from taxpayers to localities when there was a dispute over a tax assessment. He stated that there are a lot of concerns with this change, as localities already feel there is a good administrative process in place when a dispute arises whereby a taxpayer can go to the Assessor and make a case for change then the Assessor has the ability to make changes and corrections when appropriate. Beyond that there is an Equalization Board process where a panel is created under State law that can look at an assessment and determine if a correction is needed. The position of last resort is to file a lawsuit in Circuit Court. Albemarle believes that shifting the burden to localities will encourage litigation at the expense of taxpayers and the locality, and would lead to uncertainty as to financial resources available to localities year-to-year. Albemarle is asking the legislators to not support a bill that would change that burden of proof.

Mr. Davis said the final issue relates to the Composite Index. Currently there are three factors used to determine a locality's ability to pay that are wrapped into the Composite Index. The three factors are the true value of property, adjusted gross income, and taxable retail sales. He said that the real property values are assessed fair market value, but in Albemarle there is a large land-use tax program, with one consequence being deferral of approximately \$2.4 billion from being taxed, however, the assessed value still goes into the Composite Index as taxable property for purposes of computing the County's ability to pay. Mr. Davis said that Albemarle does not think that that is fair; other localities that have land-use taxation programs are similarly affected by that formula. He added that Albemarle understands that changing the Composite Index is never easy, but when this issue is examined, that is a factor that should be adjusted and Albemarle would like the legislator to support it in this current session. Since this is a budget bill, this issue may need to be studied for future consideration, but it is an important issue for Albemarle County and other localities. Mr. Davis stated that they do not know the exact financial impact because the Composite Index is a complicated formula, and the real property values component would be significantly impacted.

Mr. Deeds asked how many localities have land-use taxation programs. Mr. Davis replied that there are approximately 68 localities with land-use taxation.

Mr. Deeds commented that local Boards of Supervisors determine if those programs are implemented; they are not mandated by the State. Mr. Davis responded that land-use taxation is not mandated, but the preservation of agricultural, forestal, and open space land has been a major priority of the Commonwealth over the last 30 years. Mr. Davis added that land-use taxation is a key tool that the Commonwealth uses to promote that very important legislative and state priority. Albemarle County feels it should not be penalized for doing a good job of being a good steward of that initiative.

Mr. Rooker commented that most small farmers could not survive if they had to pay full taxes, and virtually every county represented in this room has land use, which serves a good purpose but comes with a penalty.

Mr. Deeds pointed out that there are 70+ localities that are not doing it, so they would have to bear the cost for the decision of other localities that do choose to implement land use. He stated there is going to be a lot of resistance to that.

Mr. Thomas asked what percentage of Albemarle County land is in land-use taxation. Ms. Mallek responded that it is about 65% of acreage.

Mr. Davis explained that Albemarle has about \$17.5 billion in taxable land, and \$2.4 billion of that is in land use.

Mr. Dorrier pointed out that when the Board has held hearings on this matter, many farmers have come out and said that they could not be farming if they had to pay full taxes.

Mr. Boyd noted that those hearings usually pack the Auditorium; it is a huge issue for Albemarle County constituents.

Ms. Mallek commented there is also a reduction in service outlay for that type of land.

Mr. Davis added that if the formula is designed to truly reflect the ability to pay, that land use value provides no income to the County, which means it does not contribute to pay for schools, which is the whole purpose of the Composite Index.

Ms. Mallek said that more importantly it should not show up on the County's asset sheet.

Mr. Rooker pointed out that there was an upward adjustment in the Composite Index during a time when property values fell because there was a significant increase in adjusted gross income measured by the State. When the County looked into that, they found that it was all attributable to 20 families. Since localities do not share in the income tax, it did not help in local funding of schools.

Mr. Toscano asked how this would work with collection of rollback taxes. Mr. Rooker responded that a net income could be used, but a rollback happens when property comes out of land use so it would not be a part of the equation.

Mr. Davis stated a fourth issue is the late-breaking news about the VRS system and the financial impact of the Governor's proposals, which the Board had discussed in the Fall. He said that Mr. Boyd raised the issue with VACo, who recommended that it be studied in this year's General Assembly session. Mr. Davis emphasized that staff hopes there is not a rush to judgment in this short session of the General Assembly since this is a very important issue to localities for long-term financial impact. In addition, it is a very important decision for local government and state employees, one that will impact the viability of localities as employers trying to maintain a workforce. He added that there are long-term financial impacts to the VRS system that will need to be addressed.

Mr. Deeds asked if there is an estimate on what the Governor's proposal would cost Albemarle. Mr. Davis said that there are a number of component pieces to the proposal, but the one proposal dealing with the hold harmless money being shifted to fund the VRS system would cost Albemarle schools about \$2.5 million. Mr. Davis said that would be a significant financial impact to the FY 2012 budget. The County does not know the impact of shifting the 5% cost to the employees because it would depend on how that would be funded and whether or not there was money for the 3% wage increase that goes along with that component.

Mr. Deeds asked if the Board had discussed whether the County would pick that 5% up. Mr. Davis responded that the County and Schools elected last year not to pick that up for new employees, but recently the Board and School Board have agreed to pick that up beginning in FY12 in order to remain competitive.

Mr. Deeds asked how many County employees covered by VRS are not school employees. Mr. Tucker replied approximately 800.

Mr. Davis added that local government has not felt the true financial impact of the changes because during this recession not many new employees have been hired. The financial impact has been a little more on the School Board, but most of the employees they hired came from other VRS experience and they are not VRS Plan 2 employees.

Mr. Blount pointed out that he has seen information on a proposal to raise teacher retirement rates from 5.16% to 7.16%, and localities will pay two-thirds of those retirement costs, so if the Governor shifts the hold harmless money over it could cost localities about \$100.0 million across the state.

Mr. Davis noted that the estimate for Albemarle schools is about \$1.0 million for next year, on top of the \$2.5 million lost.

Mr. Rooker said that that is about 18 teachers, adding that a penny on the tax rate is approximately \$1.5 million.

Ms. Mallek said that she has spoken with people about the new Ag/Forestral District proposal, and it is one of the few things that have had unanimity among members of the VACo Agricultural Committee. She stated that there has been significant concern about the cuts to Cooperative Extension programs. This would mean a drop from five positions to less than one for Albemarle. She said this is a real blow to a lot of the burgeoning entrepreneurial agricultural businesses all across the gamut of life in Albemarle County.

Ms. Mallek said that the Chesapeake Bay TMDL issue is a good example of how things are interconnected, as the land use program supports conservation which then supports cleaner water. She added that currently 60% of the Albemarle County is forested and would not survive full market taxation. She added that the County has an obligation to its citizens and to those who are downstream, who use the

water flowing through and from Albemarle for their drinking water supply. Ms. Mallek said that the River Basin Commission has been a real leader for the pilot project to get communities to work together to improve stream, river health and ultimately water quality.

Mr. Rooker commented that the TMDL and transportation issues combined have the opportunity to bury localities financially, adding that there have been estimates as high as \$10.0 million for TMDL compliance locally. He said that he supports efforts to clean up the Bay, but it is not clear to him how well the science behind this has been advanced on determining actions that may be mandated, what the net effect on the Bay is going to be, or any kind of reasonable cost-benefit analysis between the actions taken and their potential benefit to the Bay. He added they really need to take a careful look at what is being done in terms of the imposition of costs on localities and individuals who own land, and to make sure what is being imposed will achieve some results.

Mr. Rooker also said that the current structure for tax assessment dispute is fair and adequate, and changing it to shift the burden of proof to the defendant is a bad precedent to take in the State. He stated that people are alarmed by what is going on with regard to transportation funding, with secondary road funds reduced by 95% over the last few years, providing just \$300,000 this year and possibly none next year. Mr. Rooker said that at some point, something has got to give here as the State cannot remain competitive if there is virtually no money for secondary roads.

Ms. Mallek mentioned that in last year's winter storms, the schools were putting chains on and off their busses four times a day so they could deal with muddy gravel roads. She also emphasized that there has been a huge investment in area wineries, which provide millions in revenue for the State, and access to those facilities is primarily on secondary roads.

Mr. Dorrier commented that Albemarle is the leading Virginia county in wine production, and the vineyards have all been trying to work with the legislature to get their wines across state lines so they can sell it out of state.

Ms. Mallek stated that the federal government has considered a bill that would essentially reverse the decision made at the State level last year, but it is not certain yet whether that legislation will pass.

Mr. Thomas said that he shares Mr. Rooker's concerns regarding tax assessments. He added that he hopes the Ag/Forestral process is changed to make it more efficient and save costs to put people in the district.

Mr. Rooker noted that in the ten years he has been on that Board, there is a public hearing advertised for every change to the district, but in all that time he can never remember anyone coming out to speak.

Mr. Deeds stated that advertising would not be entirely eliminated, but would be minimized.

Mr. Davis pointed out that there would still be an advertised hearing at the Board and Planning Commission levels, as well as property owners being notified in writing.

Ms. Mallek said the County is hoping to eliminate the first advertisement that has to be done when it is referred to the Ag/Forestral District Committee.

Mr. Boyd commented that he has proposed to VACo the concept of giving localities the same options that were given to state universities, the option of going to a defined contribution plan or some combination of both, although he knows it is a long-term solution to the VRS situation. He said that JLARC had done a study on this, but no definitive conclusion was drawn.

Mr. Davis noted that Virginia Beach has done a lot of work on that issue and has shared information with VML and VACo.

Mr. Boyd mentioned that the general consensus is it is too soon to bring legislation up in this General Assembly session, but it may be a good idea is to find out how it is impacting the universities.

Mr. Tucker pointed out that UVA hospital stipulates that an employee must be in a defined contribution plan.

Mr. Deeds mentioned that the hospital has been in that arrangement for about 15 years.

Mr. Deeds commented that the General Assembly session this year is only 46 days, which means things will be moving really fast. He stated that the budget is not in as bad a shape as it has been the last four or five years, but the VRS issue remains a primary concern and given the timeframe big issues are going to be swept aside. He believes that Albemarle will be able to build some consensus around the ag/forestral issue. Mr. Deeds said that the financial issues would probably dominate the regular session with the redistricting discussion emerging sometime in the spring.

Mr. Landes said he agrees that the budget would dominate the limited amount of time legislators have this session. In terms of VRS, his goal this year is to come up with a system that will be solvent and solid long-term. He stated that there needs to be a solution that allows localities and school system some more flexibility along with the State, although it is unclear what that mix may be and the legislators may not reach consensus this session. Mr. Landes stated that he likes Mr. Boyd's suggestion to give localities

more flexibility, adding that the VRS system is in worse shape than originally thought, and the Governor's plan may not be favored by everyone but it is at least an attempt to address the issue rather than wait. He added that the Governor at least has started the discussion and it is going to take up a lot of their time in discussing. He further stated that it may be a conference issue as well and hopefully there will be something emerging that will allow for input from localities and some flexibility in the future.

Mr. Landes stated that he supports the changes to the Ag/Forestral Districts. He added that he has 15 bills already and that is the limit for House members although Senators have more. If Senator Ed Scott or someone else is the patron, he would be happy to help with the legislation.

He said that he also agreed with Mr. Deeds that there is limited funding in the budget, but it is better than in previous years and he believes there will continue to be investment in economic development, such as the winery industry. Mr. Landes emphasized that localities have more input and control on local economic development, but the State needs to ensure that policies are in place to foster leveraging opportunities. He asked that that localities let the legislators know how those policies are impacting them and how they (the legislators) can do a better job of making sure that they are getting the dollars to the business community where it needs to be, not just to give the money but things that will leverage and allow the localities to have the capital to expand and grow.

Ms. Mallek commented that getting the roads and bridges to those businesses is a great state responsibility.

Mr. Bell stated that the VRS system is clearly a huge issue, adding that the State needs to stop depleting it and the sooner there is a strategy to fill that \$17.0 billion hole the better. He added that the entire General Fund budget is less than that and the current employees are worrying about their current payroll and the solvency of the fund over the long run. Mr. Bell stated that the budget fights will be harder and new programs will be awfully hard to justify.

Mr. Boyd asked if there is a year projection on when that money will run out via actuarial tables.

Mr. Bell replied that the fund was solvent in 1999 and there was actually an argument at that time to dissolve the state pay-in system to keep it solvent.

Mr. Deeds said that the General Assembly over the years has reduced contributions in order to fund other priorities, on both sides of the aisle. He added there is nobody with clean hands in this.

Mr. Boyd pointed out that Virginia is not unique in that situation either.

Mr. Bell commented that it is getting worse, with \$625.0 million last year not paid in. He added at a minimum they need to stop the bleeding, but all of the Governor's fairly modest spending proposals are still predicated on spending the \$625.0 million they took out of VRS last year.

Mr. Toscano said that at the end of last fiscal year, the Governor declared a surplus and gave a bonus to State employees, and if that money had been used the bleeding could have been stopped at that point. He stated that every year the VRS Board of Trustees makes a recommendation for the plan to work out, and every year not enough money is put in. Mr. Toscano said that it is important to understand the nature of the liability and where the crisis point is, as there are a lot of figures floating around this issue. He emphasized that there is a difference between funding the liabilities tomorrow versus when everybody naturally retires. A lot of that money will have to be replaced this year, but he hopes the problem is not compounded by some rush to judgment. Mr. Toscano said that the state would have been better off by responding to the equalization that occurred in 1999, but that did not happen. He also commented that the State has about 57,000 miles of roads and there are a lot of countries in the world that are investing in a way that America currently is not. He added that this country cannot continue to let this happen.

Mr. Thomas noted that he read an article recently that said the more roads that are built, the more congested things will become.

Mr. Toscano agreed that not all solutions lie in building roads, but the U.S. does need to invest in them in order to remain competitive.

Mr. Rooker added that the School Board had put together information on the number of students in India and China who are graduating with engineering degrees, and they are apparently awarding as many degrees in those fields daily as the U.S. is in a given year.

Mr. Toscano responded that the Governor has proposed investment in science, technology and math instruction in higher education, although he has not put enough money into it.

Mr. Rooker commented that there is \$54.0 million proposed for economic development investment, but he hopes that that is being targeted carefully to ensure that the best jobs are being pursued with this effort. He said that money that is not spent in education and law enforcement means that those good jobs will disappear.

Ms. Mallek stated that local businesses are preferred because that money stays local, instead of a big national company that comes in and sends that money out or picks up and leave the State after five years or so.

Mr. Dorrier asked what the State is doing to promote the Sesquicentennial of the Civil War and relating that effort to tourism.

Mr. Deeds replied that Virginia was the first State to establish a commission for that effort, and has hosted two events already with another planned for next year. He added Virginia is the national leader in commemorating the Sesquicentennial of the Civil War, and it is appropriate because the majority of it was fought here.

Mr. Dorrier added that Appomattox was very significant in the Civil War, and Scottsville would benefit greatly from tourism related to the commemoration.

Mr. Deeds said that there would be a big display beginning next month in Richmond related to the Civil War, and there is a lot of activity related to the event. He stated that localities also have individual efforts taking place, with all but four localities in the State having committees established in order to tell as much of the story as possible. Mr. Deeds noted that the State has invested in a history mobile, with a company from the Valley donating a tractor as part of the effort.

Mr. Boyd commented that the 50-year water supply issue needs to be resolved locally.

Mr. Rooker expressed concern about the substantial delay in implementing this plan given the favorable bid and interest rate climate.

Mr. Boyd said that an earthen dam would allow for use of local contractors, whereas a concrete dam would likely have to come from outside.

Ms. Mallek added that there is the lingering possibility that the State could require Ragged Mountain to stop being used.

Mr. Rooker mentioned that UVA issued a statement in support of the 50-year water supply plan, which included reasons why it is the preferred approach. He also said that while everyone is experiencing tough times the local area is blessed to have what it does, and is also lucky to have such smart and articulate representation at the legislative level.

Mr. Davis offered to be of assistance should legislators need help during the session.

Adjourn. With no further business to come before the Board, the meeting was adjourned at 1:32 p.m.

Chairman

Approved by Board
Date: 04/06/2011
Initials: EWJ